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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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30594	7590	04/01/2005	EXAMINER	
HARNESS, DICKY & PIERCE, P.L.C. P.O. BOX 8910 RESTON, VA 20195			LIEN, TAN	
			ART UNIT	PAPER NUMBER
			2141	

DATE MAILED: 04/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/850,301

Applicant(s)

TERRIBLE, MARK A.

Examiner

Tan Lien

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20, 22-31 and 33-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 1-20, 22-31, and 33-42 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claims 1-20, 22-31, and 33-42 are presented for examination.

Claims 1, 4-6, 8-9, 16, 24-25, 27-31, and 33-36 are amended.

Claims 21 and 32 are cancelled.

Claims 37-42 are newly added.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peercy et al (US Patent 5,960,429) in view of Doyle (US PGPub 2002/0099807).

Claim(s) 1, 2, 3, 5, 6, 7, 9, 10, 37, 39: Peercy teaches a caching method comprising the steps of:

- (a) receiving an Internet site name (col. 2, lines 19-25);
- (b) storing the Internet site name (FIG. 2, ref. 28; wherein the Internet site name is in the form of URL) in an entry of a table having n entries (FIG. 2, ref. 28 & 30;

wherein the table has name field and a count field) if the Internet site name is not in the table (FIG. 2, ref. 24); and
(c) counting the number of times the Internet site name has been received (FIG. 2, ref. 30).

Peercy, however, fails to teach that if the Internet site name is new and the table is full, selecting an entry from a set of replaceable entries in the table and replace the selected entry with the new entry and caching a resource corresponding to at least one of a most frequently used Internet sites r where $r \leq n$.

Doyle, in an analogous art, teaches replacing an entry in the cache with a new entry (paragraph [0026]). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine and include Doyle's step of replacing one of the entry with a new entry with Peercy's method of building a table of most frequently used Internet sites, for the advantage of cost saving. Peercy's method would save caching space, which in turn would reduce cost. (paragraph [0026]).

Claim(s) 4, 15: Peercy and Doyle teach the method of claim 3 further comprising the step of retrieving r most frequently used Internet site names according to the value of the count field of each entry (col. 4, lines 40-44 Peercy).

Claim(s) 8: Peercy and Doyle teach the apparatus of claim 6, wherein

if the table is full and the Internet site name is not in the table, the processor randomly selects one of the q least frequently used entries for replacement from the set of replaceable entries (Peercy and Doyle teach selecting the least frequently used entry of the q least frequently used entries. In a similar fashion, randomly selecting one of the least frequently used entries is well known in the art at the time of the invention, so Official Notice is taken).

Claim(s) 11: Peercy and Doyle teach the apparatus of claim 10, wherein

if the Internet site name is in one of the entries, the processor increments the value of the count field (col. 4, lines 35-37 Peercy).

Claim(s) 12: Peercy and Doyle teach the apparatus of claim 11, wherein

the processor sorts the entries in the table into an order according to the value of the count field of each entry (col. 4, lines 44-47).

Claim(s) 13: Peercy and Doyle teach the apparatus of claim 12, wherein

the order is descending, whereby the r most frequently used Internet site names are in the first r entries (col. 4, lines 44-47; wherein the sorted list is in order of most popularity to least popularity).

Claim(s) 14: Peercy and Doyle teach the apparatus of claim 12, wherein

the sort is a bubble sort method (Sorting numbers according to the bubble sort is well known in the art at the time of the invention, so Official Notice is taken).

Claims 16-20, 22-31 and 33-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peercy et al in view of Blitz (US Patent 6,047,293) and Doyle.

Claim(s) 16, 17, 25, 27, 28, 36, 41: Peercy teaches an apparatus for caching resources of r most frequently used Internet site names the apparatus comprising:

a receiver for receiving an Internet site name (col. 2, lines 19-25, and col. 4, lines 35-36; wherein the Internet site name is in the form of a URL); and

a memory for storing the table having n entries where $n \geq r$, where r is the number of most frequently used Internet sites (FIG. 2, ref. 24), each entry in the table comprising a name field for the Internet site name (FIG. 2, ref. 28) and a count field for counting the number of times the Internet site name is received (FIG. 2, ref. 30)

Peercy, however, fails to teach a processor for selecting an entry from a set of replaceable entries in the table if the table is full and the number is not in the table, replace the selected entry with the hash number entry according to the value of the count field of each entry.

Doyle, in an analogous art, teaches selecting criteria (least recently used criteria) and replacing an entry in the cache with a new entry if the cache is full (paragraph [0026]). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine and include Doyle's step of replacing entry with Peercy's caching method, for the advantage of cost saving. Peercy's method would save caching space, which in turn would reduce cost. (paragraph [0026]).

Blitz, in an analogous art, teaches a processor for converting the names into numbers for quick indexing in a table and searching device names, making the number for quick indexing a hash number (col. 7, lines 38-40). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Peercy's and Doyle's caching method with Blitz's converted numbers in the number field, for the advantage of uniquely indexing the entries in the table for quick search (col. 7, lines 32-34 Blitz).

Claim(s) 18, 29: Peercy, Blitz and Doyle teach the apparatus of claim 16 wherein if the number is in one of the entries, the processor increments the value of the count field (col. 4, lines 35-36 Peercy).

Claim(s) 19, 30: Peercy, Blitz and Doyle teach the apparatus of claim 16 wherein

Art Unit: 2141

the processor retrieves the r most frequently used Internet site names from the top r entries according to the value of the count field of each entry (col. 4, lines 40-45 Peercy).

Claim(s) 20, 31: Peercy, Blitz and Doyle teach the apparatus of claim 16 wherein the processor sorts the entries in the table into an order according to the value of the count field of each entry (col. 4, lines 45-46 Peercy).

Claim(s) 22, 33: Peercy, Blitz and Doyle teach the apparatus of claim 16 wherein if the number is not in the table and the table is not full, the processor stores the number and the Internet site name in the respective fields of an empty entry (col. 4, lines 30-40; wherein when the database table was first created, the number is not in the table and the table is not full, and the entry was stored in the empty entry).

Claim(s) 23, 34: Peercy, Blitz and Doyle teach the apparatus of claim 16 wherein if the number is in an entry and the value of the count field of that entry is greater than a threshold, the processor stores the Internet site name in that entry (col. 4, lines 50-55).

Claim(s) 24, 35: Peercy, Blitz and Doyle teach the apparatus of claim 16 wherein

if the table is full and the number is not in the table, the processor randomly selects one of the q least frequently used entries for replacement (Peercy, Blitz and Doyle teach selecting the least frequently used entry of the q least frequently used entries. In a similar fashion, randomly selecting one of the least frequently used entries is well known in the art at the time of the invention, so Official Notice is taken).

Claim(s) 26: Peercy, Blitz and Doyle teach the apparatus of claim 16 wherein

the table comprises q sub-tables where $n > q > 1$, each sub-table has n/q entries and pointed to by an address ranging from 0 to $q-1$, the number is searched or stored in the sub-table pointed to by the address produced by taking a modulo operation on the number by q (It is well known in the art at the time of the invention that if one table has too many entries than breaking the entries into several different tables with primary key and foreign key linking the tables would add efficiency to searching in database theory. Furthermore, the modulo operation is also well known in the art at the time of the invention),
if the sub-table is full and the number is not in the sub-table, the processor replaces one of the bottom n/q entries according to the value of the count field of each entry (paragraph [0026], last couple sentences of Doyle), and
retrieves the r most frequently used Internet site names from the top r entries among the q sub-tables according to the value of the count field of each entry (col. 4, lines 40-45 Peercy).

Claim(s) 38, 40, 42: Peercy may not explicitly teach audio files but it is well known in the art (See reference 6,467,028).

Response to Amendment

Applicant's arguments filed 12/06/2004 have been fully considered but they are not persuasive.

In the Remarks, Applicant argued that

(a) the combination of Peercy and Doyle do not render obvious claims 1-5 and 37-38 of the present invention, and that there is no suggestion to combine.

As to point (a), the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the suggestion to combine is taught explicitly in one or both of the references cited. See rejection in claim 1.

(b) the combination of Peercy, Doyle and Blitz is impermissible and even if permissible, does not render obvious the subject matter of claims 16-20, 22-26, 39 and 40.

As to point (b), the Examiner has given proper suggestion or motivation to combine Doyle's teaching and Blitz's teaching with Peercy's teaching. See rejection in claim 16 and 27.

Conclusion

- Kelly (US Patent 6,467,028) teaches caching of audio on the web.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Tan Lien whose telephone number is (703) 305-6018. The examiner can normally be reached on Monday-Thursday from 8:30am to 6pm. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia, can be reached at (703) 305-4003. The fax phone number for this Group is (703) 305-3718.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [tan.lien@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Examiner

Application/Control Number: 09/850,301
Art Unit: 2141

Page 12

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SUPERVISORY PATENT EXAMINER